

AN ORDINANCE approving Agreement between City of Fort Wayne and Patrick J. Till and Robert A. and Deborah D. Kinney for 205 West Wallen Road Sanitary Sewer, a local sanitary sewer.

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. That Agreement for Sewer Extension dated December 13, 1982, between Patrick J. Till, Robert A. and Deborah D. Kinney and the City of Fort Wayne, by and through its Mayor and the Board of Public Works, for:

the construction of a local sanitary sewer beginning at an existing manhole approximately 630 L. F. + South of the Northeast corner, NW1/4, NE1/4, Section 11, Township 31 North, Range 12 East; thence Northwesterly 125 L. F. + to a manhole located 15 L. F. + West of the East line of the NW1/4, NE1/4 said Section 11; thence North, parallel to said line, 290 L. F. + to a manhole and terminating. Said sanitary sewer to be 8" in diameter, pursuant to plans, specifications and profiles in the office of the Chief Engineer of the Water Pollution Control Engineering Department of the City of Fort Wayne and known as "Sanitary Sewer Extension" to serve 119 W. Wallen Road;

involving a total cost of Five Thousand Five Hundred Nineteen and 00/100 Dollars (\$5,519.00), which entire cost is to be paid by owners, all as more particularly set forth in said Agreement, which is on file with the Office of the Board of Public Works and is by reference incorporated herein, made a part hereof, and is hereby in all things ratified, confirmed, and approved. Two copies of said Agreement are on file with the Office of the City Clerk and made available for public inspection, according to law.

SECTION 2. That this Ordinance shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor.

Victoria L. Scruggs
Councilmember

APPROVED AS TO FORM AND LEGALITY
THIS 6th DAY OF JANUARY, 1983.

Bruce O. Boxberger
Bruce O. Boxberger, City Attorney

Read the first time in full and on motion by Scruggs, seconded by Scruggs, and duly adopted, read the second time by title and referred to the Committee City of Fort Wayne (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on _____, 19____, at _____ o'clock _____.M., E.S.T.

DATE: 1-11-83

Charles W. Westerman
CHARLES W. WESTERMAN - CITY CLERK

Read the third time in full and on motion by Scruggs, seconded by GiaQuinta, and duly adopted, placed on its passage. PASSED (~~LOST~~) by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>	<u>TO-WIT:</u>
<u>TOTAL VOTES</u>	<u>9</u>	_____	_____	_____	_____
<u>BRADBURY</u>	<u>✓</u>	_____	_____	_____	_____
<u>BURNS</u>	<u>✓</u>	_____	_____	_____	_____
<u>EISBART</u>	<u>✓</u>	_____	_____	_____	_____
<u>GiaQUINTA</u>	_____	_____	_____	_____	_____
<u>SCHMIDT</u>	<u>✓</u>	_____	_____	_____	_____
<u>SCHOMBURG</u>	<u>✓</u>	_____	_____	_____	_____
<u>SCRUGGS</u>	<u>✓</u>	_____	_____	_____	_____
<u>STIER</u>	<u>✓</u>	_____	_____	_____	_____
<u>TALARICO</u>	<u>✓</u>	_____	_____	_____	_____

DATE: 1-20-83

Charles W. Westerman
CHARLES W. WESTERMAN - CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (~~ZONING MAP~~) (~~GENERAL~~) (~~ANNEXATION~~) (~~SPECIAL~~) (~~APPROPRIATION~~) ORDINANCE (RESOLUTION) NO. 1-32-83 on the 25th day of January, 1983.

ATTEST:

(SEAL)

Charles W. Westerman
CHARLES W. WESTERMAN - CITY CLERK

Ray A. Eberk
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 26th day of January, 1983, at the hour of 11:30 o'clock A.M., E.S.T.

Charles W. Westerman
CHARLES W. WESTERMAN - CITY CLERK

Approved and signed by me this 26th day of Jan. 1983, at the hour of 4 o'clock P.M., E.S.T.

Win Moses, Jr.
WIN MOSES, JR. - MAYOR

98-162-33
12/14/82

AGREEMENT FOR SEWER EXTENSION

THIS AGREEMENT, made in triplicate this 13th day of DECEMBER, 1982 by and between PATRICK J. TILL, single and over the age of 18 years and ROBERT A. and DEBORAH D. KINNEY, husband and wife, hereinafter referred to as "OWNER" and the CITY OF FORT WAYNE, INDIANA, an Indiana Municipal Corporation, hereinafter referred to as "CITY", WITNESSETH:

WHEREAS, the "OWNER" desires to construct a local sanitary sewer described as follows:

"Beginning at an existing manhole approximately 630 L. F. \pm South of the Northeast corner, NW $\frac{1}{4}$, NE $\frac{1}{4}$, Section 11, Township 31 North, Range 12 East; thence Northwesterly 125 L. F. \pm to a manhole located 15 L. F. \pm West of the East line of the NW $\frac{1}{4}$, NE $\frac{1}{4}$ said Section 11; thence North, parallel to said line, 290 L. F. \pm to a manhole and terminating. Said sanitary sewer to be 8" in diameter!"

in accordance with plans, specifications and profiles heretofore submitted to and approved by "CITY" and now on file in the office of the Chief Engineer of the Water Pollution Control Engineering Department of "CITY" and known as "Sanitary Sewer Extension to serve 119 W. Wallen Road and drawn by Joseph B. Stody Jr., Registered Land Surveyor # S-0144, under Survey Job #6156, dated October 26, 1982 which plans, specifications, profiles are by reference incorporated herein and made a part hereof, which sewer will serve not only land in which the "OWNER" has an interest, but also an adjoining land areas and;

WHEREAS, the cost of construction of said sewer is represented to be \$5519.00.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and agreements hereinafter set forth, the parties hereto agree as follows:

1. CONSTRUCTION OF SEWER

"OWNER" shall cause said sewer to be constructed and located in accordance with said plans, specifications, and profiles, all approved by "CITY" under private contract to be let with sixty (60) days after requisite "CITY" approval. All work and materials shall be subject to inspection by "CITY" and the right of "CITY" to halt construction if there shall be noncompliance therewith. Said sewer shall not be deemed completed and/or permanently connected into the sewer system of "CITY" until final acceptance by "CITY". Upon acceptance by "CITY" said sewer shall become the property of "CITY" and "CITY" shall accept sewage therefrom, subject to such sewage service charges as may now or hereafter be regularly established by "CITY", and all further maintenance thereafter shall be borne by "CITY".

2. COST OF CONSTRUCTION

"OWNER" agrees to pay the entire cost and expense of construction of said sewer, in cash, including "CITY" engineering and inspection fees, and to hold "CITY" harmless from any liability for claims connected therewith.

3. AREA OF "OWNERS"

Said sewer when accepted by the "CITY" will serve the following described real estate:

Part of the Northwest $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of Section 11, Township 31 North, Range 12 East, Allen County, Indiana, more particularly described as follows:

Beginning at an iron stake marking the Northeast corner of the NW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of said Section 11, said iron stake being 1305.8 feet distant measured Westerly along the North line of said Section 11 from a stone marking the Northeast corner of said Section 11; thence (assuming the East line of the NW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of said section to have a bearing North-South) South 230.0 feet to an iron stake; thence North 88 degrees 55 minutes 18 seconds West, parallel with the North line of said Section 11, a distance of 190.0 feet to an iron stake; thence North parallel with the East line of the NW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of said Section, 230.0 feet to an iron pin on the North line of said quarter quarter Section; thence South 88 degrees 55 minutes 18 seconds East along the North line of the NW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of said Section 11, a distance of 190.0 feet to the place of beginning, Containing 1.0 acre, more or less. Subject to road right-of-way along the Northerly line thereof.

ALSO:

The South 460.0 feet of the North 690.0 feet of the East 190.0 feet of the Northwest $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of Section 11, Township 31 North, Range 12 East, Allen County, Indiana, containing 2.0 acres, more or less.

As "OWNER" will pay for the cost of construction of said sewer as it pertains to the above described area, no charge or assessment is made by this Agreement against the above described real estate for the construction of said sewer by the present or future owners of said real estate except only as to such standard tap-in, inspection fees and monthly sewage treatment charges as are customarily charged by "CITY" for connections to "CITY" sewer mains and treatment of sewage therefrom.

4. AREA CONNECTION CHARGE

An area connection charge of \$475.00 per acre must be paid to "CITY" at the time of connection. This area connection charge is in addition to the local charge as set forth above, and represents the installation and/or oversizing cost expended by "CITY" for sewer line(s) known as St. Joe Interceptor

Resolution # 61-140-11

5. BOND

This contract is subject to "OWNER" and/or his contractor furnishing a satisfactory Maintenance and Guaranty Bond for 25% of the value of the sewer which shall guarantee said sewer against defects for a period of one year from the date of final acceptance of said sewer by "CITY".

6. LIMITATION ON USE

Said sewer shall be constructed for disposal of sanitary sewage only and neither the parties hereto, their successors, or assigns, or any future owner of any land serviced by said sewer, shall at any time discharge or permit to be discharged or to flow into said sanitary sewer, any water runoff caused by natural precipitation or anything other than sanitary sewage or contaminated waste in accordance with City Municipal Code.

7. WAIVER OF RIGHT TO REMONSTRATE AGAINST ANNEXATION

"OWNER", for himself, his successors in title and assigns, waives and releases any and all rights which it may now or hereafter have to remonstrate against or otherwise object to, interfere with or oppose any pending or future annexation by "CITY" of any territory now or hereafter owned by him, as described in Article 3 herein, or hereafter served by said sewer or any extension thereof.

In further consideration and to induce "CITY" to execute and ratify this contract, said "OWNER", for himself, his successors and assigns, agrees by this contract to vest in "CITY" the permanent right at its discretion to annex to the City of Fort Wayne at any future time by duly authorized ordinance the said real estate described in Article 3 herein.

"OWNER" further agrees that any deeds, contracts, or other instruments of conveyance made by "OWNER", its successors or assigns transferring or conveying any interest in and to any of the real estate described in Article 3 herein, shall contain the waiver and release provisions contained in this article which provisions shall run with the land and the acceptance of the delivery of any such instruments from "OWNER", his successors and assigns by any grantee, vendee, or contract purchaser, shall be made subject to the terms of this Agreement and shall constitute an acceptance of the foregoing provisions by said grantee, vendee, or contract

purchaser and their successors in title.

"OWNER" further agrees to record an executed copy of this contract in the Allen County Recorder's Office within ten (10) days of its adoption and approval by the Common Council of CITY as hereinafter provided.

Any owner or owners of land which is now, or hereafter located outside the corporate limits of "CITY" who connect into the sewer constructed hereunder shall be deemed to thereby waive his, her, their, or its right to remonstrate against or otherwise object to, interfere with or oppose any pending or future annexation by "CITY" of such land or of the territory in which it is located or of the area served by said sewer. (I.C. 36-9-22-2, as added by Acts 1981, P. L. 309, 395).

8. COUNCILMANIC APPROVAL

It is understood and agreed that this contract is in all respects subject to approval by the Common Council of City, by duly appointed Ordinance, and if such Ordinance is not adopted within a period of ninety (90) days after execution thereof, this contract shall be null and void and of no further force and effect.

IN WITNESS WHEREOF, the parties have subscribed to this Agreement the day and year first above written.

SEAL

"OWNER"

Patrick J. Till

PATRICK J. TILL

Robert A. Kinney

ROBERT A. KINNEY (HUSBAND)

Deborah D. Kinney

DEBORAH D. KINNEY (WIFE)

"CITY"
MAYOR

BY:

Win Moses, Jr.

WIN MOSES, JR.

BOARD OF PUBLIC WORKS

BY:

Stephen A. Bailey

STEPHEN A. BAILEY, CHAIRMAN

BY:

Roberta Anderson-Staton

ROBERTA ANDERSON-STATON, MEMBER

BY:

Betty Collins

BETTY COLLINS, MEMBER

ATTEST:

Sandra E. Kennedy

SANDRA E. KENNEDY, CLERK

APPROVED AS TO FORM AND LEGALITY

Richard E. Stoffer

ASSOCIATE CITY ATTORNEY

STATE OF INDIANA

SS

COUNTY OF ALLEN

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared PATRICK J. TILL - Robert A. Kinney - Deborah D. Kinney who acknowledged the execution of the foregoing agreement for sewer extension, as and for his and/or her voluntary act and deed for the uses and purposes therein contained.

WITNESS my hand and notarial seal this 13th day of December, 1982

My Commission Expires:

Jan 5, 1983

Notary Public

Thomas E. Stoddy

THOMAS E. STODDY

Resident of

Allen

County

STATE OF INDIANA

SS

COUNTY OF ALLEN

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared Stephen A. Bailey - Roberta A. Staton - Betty R. Collins who acknowledged the execution of the foregoing agreement for sewer extension, as and for his and/or her voluntary act and deed for the uses and purposes therein contained.

WITNESS my hand and notarial seal this 15 day of December, 1982

My Commission Expires:

SHARON J. HELMSING, Notary Public

Resident of Allen County

My Commission Expires July 6, 1986

Notary Public

Sharon J. Helmsing

Resident of

Allen

County

This Instrument prepared by: Joseph B. Stoddy Jr.; L. S.

BILL NO. S-83-01-17

REPORT OF THE COMMITTEE ON CITY UTILITIES

WE, YOUR COMMITTEE ON City Utilities TO WHOM WAS REFERRED AN
ORDINANCE approving Agreement between City of Fort Wayne and Patrick
J. Till and Robert A. and Deborah D. Kinney for 205 West Wallen
Road Sanitary Sewer, a local sanitary sewer

HAVE HAD SAID ORDINANCE UNDER CONSIDERATION AND BEG LEAVE TO REPORT
BACK TO THE COMMON COUNCIL THAT SAID ORDINANCE PASS.

VICTURE L. SCRUGGS, CHAIRMAN

SAMUEL J. TALARICO, VICE CHAIRMAN

DONALD J. SCHMIDT

MARK E. GiaQUINTA

PAUL M. BURNS

1-25-83 CONCURRED IN
DATE _____ CHARLES W. WESTERMAN, CITY CLERK

TITLE OF ORDINANCE Agreement for 205 West Wallen Road Sanitary Sewer Extension

DEPARTMENT REQUESTING ORDINANCE Board of Public Works

S-83-01-17

SYNOPSIS OF ORDINANCE An agreement between the City of Fort Wayne and Patrick J. Till and Robert A. & Deborah D. Kinney for 205 West Wallen Road Sanitary Sewer, a local sanitary sewer. The entire cost of construction of this sewer will be paid by owners.

EFFECT OF PASSAGE Improve sanitary conditions.

EFFECT OF NON-PASSAGE

MONEY INVOLVED (DIRECT COSTS, EXPENDITURE, SAVINGS) None to City

ASSIGNED TO COMMITTEE